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Candace Havens  
Director

## WORKING SESSION MEMORANDUM

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**DATE:** March 9, 2012

**TO:** Alderman Marcia T. Johnson, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Candace Havens, Director of Planning and Development  
Eve Tapper, Chief Planner for Current Planning  
Seth Zeren, Chief Zoning Code Official ET

**RE:** #49-11 Ald. Johnson, Chair of Zoning and Planning Committee, on behalf of the Zoning and Planning Committee requesting that the Director of Planning and Development and Commissioner of Inspectional Services review with the Zoning and Planning Committee the FAR data collected during the eight months prior to the new FAR going into effect and the 12 months after. This committee review should occur no less than bi-monthly but could occur as frequently as monthly, based on the permits coming into the departments.

**MEETING DATE:** March 12, 2012

**CC:** Board of Aldermen  
Planning and Development Board  
Donnalyn Kahn, City Solicitor  
John Lojek, Commissioner of Inspectional Services

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### INTRODUCTION

In February 2011, the Board of Aldermen adopted new residential floor area ratio (FAR) regulations under Ordinance Z-77, which changed both the way FAR is calculated and allowed FAR limits. The new regulations became effective on October 15<sup>th</sup>, 2011. When the new rules were adopted in February, the Committee requested that the Planning and Inspectional Services (ISD) Departments collect data to compare the "old" and "new" FAR calculations of actual and proposed construction projects in the period before and after the new FAR regulations became effective. In the past twelve months, the Departments have collected approximately 100 worksheets comparing FAR calculations. On February 7, 2012, ISD and Planning staff met with the former members of the FAR working group to discuss how

they saw the new FAR rules as working. This memo describes the data collected to date and discusses what the Departments have learned since the new FAR rules went into effect.

## **DATA COLLECTION**

The FAR worksheets collected to date (see Table 1), represent the following:

- Actual projects: for which building permits were obtained
- Potential projects: worksheets submitted for possible additions or new homes
- Existing properties: FAR calculations for existing homes where no construction was planned

**Table 1: Worksheets by zone**

<b>Zone</b>	<b>Number of Worksheets</b>	<b>Worksheets from Zone As a Percentage of Total Lots in Zone</b>
<b>MR1</b>	8	0.23%
<b>MR2</b>	5	0.50%
<b>SR1</b>	14	0.93%
<b>SR2</b>	46	0.56%
<b>SR3</b>	23	0.31%

These worksheets do not include all development over the past 12 months. In the many cases where additions were very clearly compliant with FAR, worksheets were not submitted. ISD issues a total of 2,000-2,500 building permits per year, but does not have a concrete estimate for the total number of permits issued which might have an FAR implication. For more information on the methodology of data collection, please see the Planning Department Memorandum dated October 21, 2011.

## **ANALYSIS**

Planning Department staff has classified the worksheets received to date into four categories as described below and shown in the following tables:

- Nonconforming under both the old rules and the new rules
- Conforming under both the old rules and the new rules
- Conforming under the old rules and nonconforming under the new rules
- Nonconforming under the old rules and conforming under the new rules

These charts demonstrate that, notably, the percentage of projects which report doing better under the new rules than under the old rules has risen sharply and the percentage of projects which do worse under the new rules has declined since they came into effect on October 15, 2011.

**Table 2: Breakdown of data collected before October 15, 2011**

	Nonconforming under both rules	FAR conforming under both rules	Conforming under old rule, nonconforming under new rule	Nonconforming under old rule, conforming under new rule	Total
MR1	1	2	4	0	7
MR2	1	2	0	0	3
SR1	0	7	6	0	13
SR2	1	10	20	1	32
SR3	1	4	6	2	13
<b>Total # (%)</b>	<b>4 (6%)</b>	<b>25 (37%)</b>	<b>36 (53%)</b>	<b>3 (4%)</b>	<b>68</b>

**Table 3: Breakdown of data collected after October 15, 2011**

	Nonconforming under both rules	FAR conforming under both rules	Conforming under old rule, nonconforming under new rule	Nonconforming under old rule, conforming under new rule	Total
MR1	0	0	0	1	1
MR2	0	1	0	0	1
SR1	0	2	0	0	2
SR2	0	5	6	2	13
SR3	0	4	2	2	8
<b>Total # (%)</b>	<b>0 (0%)</b>	<b>12 (48%)</b>	<b>8 (32%)</b>	<b>5 (20%)</b>	<b>25</b>

**FAR WORKING GROUP ADVISORY MEETING**

The former members of the FAR Working Group met in February to discuss how the new rules are working. The group expressed broad consensus that the FAR rules appear to be working as intended, but that some adjustments may be necessary. The group agreed that these adjustments should be based on data and that the full year testing period (ending October 15, 2012) should be allowed to play out before considering changes. The group discussed several ways in which the FAR limit and calculations of gross floor area could be tweaked to encourage better design. These ideas are listed below grouped by the general degree of consensus within the group.

General Agreement:

- The group was concerned that the FAR limit number may be too low in some or all zones.
- The group supported the idea that small increases in FAR could be freed from special permit review, such as by allowing some administrative discretionary approval or review by another board or commission, such as the ZBA.
- The majority of the group did not support the idea of granting a gross floor area (GFA) credit to accessory structures/garages to incentivize detached garages. The majority felt that the essential principle to “count everything” was central to preventing “gaming” of the FAR rules. However, there was discussion that detaching the garage, with requirements for a separation

distance and locating the garage in the rear yard, would minimize the overall bulk of the main structure.

- The group agreed that it would be helpful to have a definition of a “sloping roof” (as it relates to the definition of “half story”).

#### No consensus:

- The group was split on whether there needed to be changes to the calculation of mass below the first story. Proponents noted that the four-foot threshold for including a portion of the basement in GFA means that an inch of grading around a house (going from 4’ to 3’11”) could mean a difference of hundreds of square feet of allowed floor area. Others noted that there would always be houses close to any regulatory line and that grading around a house was a reasonable way to reduce the appearance of bulk.
- The group was also evenly split regarding whether to revise the calculations for space above the second story. Some expressed concern that the new rules might incentivize lower-pitched roofs. Others countered that flat-roofed houses were unlikely to sell, and that predictions that the new rules would lead to a surge in flat roofs were greatly exaggerated.
- The group was also split on whether the rules should be adjusted to provide exemptions for expansions of existing homes that stay within the footprint, for example, adding dormers to a third floor.

### **POLICY DECISION**

The key policy question is whether the revised FAR rules have led to new homes and additions that are more in keeping with the scale and character of their neighborhoods. The data to date can show numerically what projects have been proposed or approved, but does not show whether these houses or additions are in keeping with their surroundings. This more difficult and subjective judgment must wait until plans and renderings are submitted and/or homes constructed, and requires looking at the size and design of structures in context.

#### **Possible actions include:**

- Take no action at this time and leave the new regulations as they are.
- Modify the FAR limit, now or at a later date.
- Modify the method of calculating gross floor area.
- Modify the FAR limit and the method of calculating of gross floor area.

### **RECOMMENDATION**

The FAR rules now extend to provide reasonable regulation of allowed bulk for all homes in the City. Some larger new home designs, which would have been just under the old FAR limits are now permitted only by special permit. Many smaller homes on smaller lots now have more development potential for modest additions. The Planning Department agrees with the FAR Working Group that the

full testing period should be allowed to play out so that the largest possible pool of data can be collected and the first houses built under the new rules can be viewed. After this period, ISD, the Planning Department, and the Board would have the data and experience with the new regulation to discuss how the FAR limit and the calculation could be tweaked in small ways to achieve the development outcomes desired.